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IN THE HIGH COURT OF JUDICATURE AT MADRAS

**Orders Reserved on : 10.12.2021
Pronouncing orders on : 13.12.2021**

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

**Contempt Petition No.461 of 2021
in O.P.No.932 of 2017
& A.No.1063 of 2021**

1.Mr.K.Punniyamoorthy

2.Mr.K.Premkumar

...Petitioners

Both are residing at

5-B, River Hights Apartments,
315, Valluvarkottam High Road,
Nungambakkam, Chennai 34

vs.

1.Mr.Madan Pandey

Proprietor of M/s.Escape Artists Motion Pictures,
No.69A, Habibullah Road, T.Nagar,
Chennai – 600 017.

2.Mr.Gautham Vasudev Menon,

Proprietor of M/s.Ondraga Entertainment,
No.61/3, Gandhi Street, Kangam,
Taramani, Chennai – 600 113.

3.Mr.S.Venkartamanan,

Director of M/s.Photon Kathaas Production Private Limited,
Bo.16/1, 3rd Floor, Rukmani Apartments,
Charabagh Avenue,
Mylapore, Chennai – 600 004.

4.Ms.A.Reshma Ghatala,

No.19, Avenue Road,
Nungambakkam,
Chennai 34

... Respondents



PRAYER: Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondents herein for their willful disobedience of this Court order dated 03.04.2018 made in O.P.No.932 of 2017 and connected O.A.No.1144 of 2016 and OA.No.988 of 2017 and Application No.6132 of 2017 and punish them Under Section 11 of the Contempts of Courts Act, 1971.

For Petitioners : Mr.E.Omprakash
Senior Counsel for
Mr.K.Moorthy

For Respondents : Mrs.Inthu Karunakaran for R1
Ms.Chitra Sampath
Senior Counsel for
Mr.K.Arun Pradeesh
for R2 to R4

ORDER

This contempt petition has been filed with an allegation that the respondents who were bound by the Memorandum of Understanding which formed part of the Decree dated 03.04.2018 deliberately attempted to go against the undertaking and have taken a contrary stand in the arbitration proceedings and therefore, committed contempt.

2.The petitioners entered into an agreement with the first respondent and made payments to the tune of Rs.13.72 Crores. Thereafter, there was a dispute between the parties and the petitioners initiated action against the 1st



(herein after called as “Act”) in O.A.No.1144 of 2016. An interim injunction order was passed against the 1st respondent restraining him from dealing with the distribution rights for the movie in favour of any third parties. Similar orders were also passed in O.A.No.988 of 2017 and Application No.6132 of 2017, dated 09.10.2017. The 1st respondent was also directed to furnish security. In the meantime, the petitioners also filed petition under Section 11(6) of the Act for appointment of Arbitrator.

3.During the pendency of the above applications, the petitioners and the 1st respondent entered into a Memorandum of Understanding on 31.03.2018 and this Court passed an order on 03.04.2018 in terms of the Memorandum of Understanding.

4.The 1st petitioner had also entered into similar arrangements with the 2nd and 3rd respondents and Arbitration Claim Petition Nos.01 of 2018 and 2 of 2019 are pending. In these proceedings, they seem to have filed counter affidavit to the effect that the earlier Memorandum of Understanding dated 31.03.2018 will cover their liabilities also and no moneys are due and payable by them. This stand taken, according to the petitioners, tantamounts to false statements made in violation of the Memorandum of Understanding. Hence, the present contempt petition has



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5. Heard the learned counsel for the petitioners and the learned counsel appearing on behalf of the respondents.

6. In the considered view of this Court, respondents 2 to 4 were not parties to the earlier proceedings and they were also not parties in the Memorandum of Understanding. The proceedings specifically dealt with the transactions between the petitioners and the 1st respondent through agreement dated 18.03.2016. This agreement totally involved a sum of Rs.13.72 Crores. The terms of Memorandum of Understanding dated 03.04.2018 specifically governed only the petitioners and the 1st respondent. As per the Memorandum of Understanding, Rs.8.50 Crores was paid by the 1st respondent before the release of the movie. Thereafter, the 1st respondent transferred and assigned 50% of the share in a movie in favour of the 1st petitioner which carried a value amounting to a sum of Rs.10.22 Crores. Thus according to the 1st respondent, he has complied with the terms of Memorandum of Understanding which formed the basis of the order passed on 03.04.2018.

7. A stand was taken by respondents 2 to 4 in the pending arbitration proceedings as if their dues were also covered under the Memorandum of

Understanding. In the considered view of this Court, this is a matter to be



dealt with in the arbitration proceedings. The 1st respondent has taken a very clear stand in the counter affidavit that R2 to R4 are making a false claim and their dues do not form part of the Memorandum of Understanding dated 31.03.2018.

8. While dealing with the contempt petition, this Court must only see if there is an intentional violation of the undertaking given before this Court in the Memorandum of Understanding which formed part of the final orders passed in the applications. This Court does not find any such violation and in fact the 1st respondent has taken a very specific stand that he has complied with the conditions. The stand that is taken by respondents 2 to 4 in the arbitration proceedings cannot be put against the 1st respondent and they cannot be made as parties in the present contempt proceedings, since they were not parties in the above applications. In any case, the stand taken by respondents 2 to 4 in the arbitration proceedings will not in any way bind the 1st respondent, since the 1st respondent is denying the claim made by them.

9. In the considered view of this Court, the petitioners will have to appropriately explain the Memorandum of Understanding and refute the claim made by respondents 2 to 4 in the pending arbitration proceedings and they cannot maintain the present contempt petition only based on the stand

taken by respondents 2 to 4.



10. In the result, this Contempt Petition is closed. Consequently,
connected application is closed.

SD/-
ASSISTANT REGISTRAR(COMM.CASES)

SSR

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)
from 25th day of September 2008 the Registry is issuing Certified copies of
the Orders/Judgments/Decrees in this format.
GS/14/02/2022

To

The Sub Assistant Registrar(O.S.),
High Court, Madras